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IDAHO PUBLIC
UTILITIES COMMISSION

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BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of IAT
Communications, Inc., d.b.a. NTCH-Idaho, Inc.
or Clear Talk, for Designation as an Eligible
Telecommunications Carrier.

CASE NO. GNR-T-03-08

In the Matter of the Application of NPCR, INC.
d/b/a NEXTEL PARTNERS
Seeking Designation as an Eligible
Telecommunications Carrier that may receive
Federal Universal Service Support.

CASE NO. GNR-T-03-16

RESPONSE OF CLEAR TALK TO
THE PROTEST, COMMENTS AND
MOTION FOR STAY OF CITIZENS,
ET AL

IAT Communications, Inc., and NTCH-Idaho, Inc., collectively doing business as Clear Talk ("Clear Talk") hereby respond to the "Protest, Comments and Motion for Stay" filed by Intervenor Citizens Telecommunications Company of Idaho ("Citizens") and the self-declared "Protestants" - Potlatch Telephone Company, CenturyTel of Idaho, and CenturyTel of the Gem State - in the above combined cases.

PROCEDURAL ISSUE

Pursuant to the Idaho Public Utilities Commission's ("Commission") Rules of Procedure,

CLEAR TALK'S RESPONSE TO
CITIZENS' PROTEST, COMMENTS AND MOTION FOR STAY

the self-declared “Protestants” are not parties to this proceeding. *See* IDAPA 31.01.01.031 – 037. Therefore, they are not entitled to “appear at hearing or argument, introduce evidence, examine witnesses, make and argue motions, state positions” or otherwise participate in hearings or arguments. IDAPA 31.01.01.038. Consequently, the “Protest, Comments and Motion for Stay” as filed by the self-declared “Protestants” must be stricken from the record by the Commission.

MOTION FOR STAY

Citizens’ Motion for Stay must be denied. To rule otherwise would result in complete telecommunications gridlock in Idaho for the simple reason that, if Citizens’ logic were followed, then any regulatory proceeding whatsoever could and should be suspended indefinitely on the premise that federal law *may* change at some *indefinite point in the future*. If the Commission buys Citizens’ argument that whenever a related telecommunications issue is pending before the Federal Communications Commission (“FCC”) this Commission must refrain from any action within its jurisdiction, then the Commission may as well turn all telecommunications regulatory authority in Idaho over to the FCC.

Clear Talk has already committed to providing the universal services outlined in 47 C.F.R. § 54.101(a) throughout the services areas for which it has requested Eligible Telecommunications Carrier (“ETC”) designation.¹ Likewise, Clear Talk has committed to providing those services through its own facilities and, where necessary, through others’ facilities by contract.² Clear Talk has also committed to advertising the availability of such services throughout the relevant service areas.³ Indeed, the Commission has already found that

¹ Clear Talk Application at 4 – 7; see also Commission Order No. 29261, dated June 11, 2003.

² *Id.* at 8.

³ *Id.*

Clear Talk meets the requirements for ETC designation in Qwest-served exchange areas in Idaho.⁴ Therefore, the only issue before this Commission is whether designation of Clear Talk as an ETC in rural exchange areas is in the public interest. 47. U.S.C. § 214(e)(1) & (e)(2).

PERIOD. The law on that issue is clear and this Commission does not need to wait for the FCC to weigh in further on that inquiry. Nor should the Commission suspend Clear Talk's Application indefinitely while the FCC examines the Universal Services Fund as a whole. Citizens' attempt to somehow transform Clear Talk's Application proceeding into a referendum on the entire federal universal services fund should be rejected out of hand.

Furthermore, the delivery of universal wireless service to rural Idaho consumers should not be held up on the mere speculation that the current law *may* change, at some *indefinite point in the future*. If that were the standard, then the other state commissions that have already granted competitive ETC status to wireless carriers operating in rural areas within their jurisdiction would not have acted. Obviously, none of those commissions were concerned that a subsequent change in FCC policy would lead to an unfair advantage for incumbent ETCs. In the event that applicable federal law changes at some point in the future, this Commission is fully equipped to issue appropriate modification orders, if any, on an as-needed basis.

As for Citizens' professed concern that a subsequent change in FCC policy would lead to an unfair advantage "as to one or more CETCS"⁵, Citizens does not have standing to raise an argument on behalf of its competition.

CONCLUSION

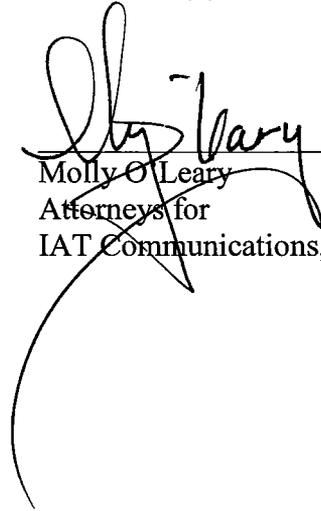
Clear Talk is entitled to have its Application considered by the Commission based on the law in existence at the time of its Application. The only issue before this Commission is whether

⁴ Commission Order No. 29261, dated June 11, 2003.

designation of Clear Talk as an ETC in the subject rural exchange areas is in the public interest. The citizens of Idaho are entitled to have universal wireless service deployed as quickly as technologically feasible, and the citizens in rural Idaho are no less entitled. That is precisely the “public interest” this Commission is charged with promoting. This Commission must resist any effort by Citizens or any other incumbent ETCs to throw a self-serving roadblock up on the information highway.

RESPECTFULLY SUBMITTED, this 26th day of June, 2003.

RICHARDSON & O’LEARY, PLLC



Molly O'Leary
Attorneys for
IAT Communications, Inc. dba Clear Talk

⁵ Citizens’ Protest at 2.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have, this 26th day of June, 2003, served the foregoing RESPONSE OF CLEAR TALK TO PROTEST, COMMENTS AND MOTION FOR STAY BY CITIZENS, ET AL as indicated below:

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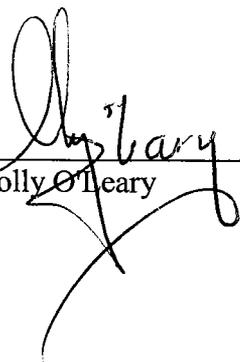
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Commission Staff

Signed: _____


Molly O'Leary

CERTIFICATE OF SERVICE
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